



## DEPARTMENT OF THE INTERIOR

### DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION (DIAR)

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#### SUBPART 1425.1 -- BUY AMERICAN ACT -- SUPPLIES

##### 1425.102 Policy

(a)(3) The AS/PMB is authorized to make the determination that a foreign end item will be acquired for Government use because preference for a U.S. item would be inconsistent with the public interest. Such determinations shall be prepared by the CO and submitted by the HCA to the Director, PAM for further action.

#### **1425.105 Evaluating offers**

(a) In unusual circumstances, the Director, PAM may authorize the use of evaluation differentials other than those prescribed in [FAR 25.105](#) for a particular acquisition.

(b) Requests for use of other evaluation differentials shall be submitted by the HCA to the Director, PAM for further action.

#### **1425.108 Excepted articles, materials and supplies**

(b) The Director, PAM is authorized to make the determination that an article, material or supply not included in the list under FAR 25.108(d) is not mined, produced, or manufactured in the U.S. in sufficient and reasonably available commercial quantities of satisfactory quality. Determinations shall be prepared by the CO and submitted by the BPC for approval.

(c) Contracting activities which have information justifying the removal of an item from the list under FAR 25.108(d) shall submit such information to the Director, PAM for further disposition.

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### **SUBPART 1425.2 -- BUY AMERICAN ACT -- CONSTRUCTION MATERIALS**

#### **1425.201 Definitions**

"Component Cost", as used in this subpart, includes the cost of materials only. The costs of direct labor, overhead, packaging, testing, evaluation and profit are excluded from the cost determination unless the same manufacturer both produces and incorporates the component into the material.

"Impracticable", as used in this subpart, includes reasons other than cost, and availability.

"Manufacture", as used in this subpart, means completion of an end product in the form required to meet specifications. It includes only direct incorporation of components into the end products to alter the original material and establish the identity/character of the end product, and excludes other supplies, materials, and requirements such as testing, manuals, related equipment, etc.

#### **1425.202 Policy**

(a)(1) The CO may determine the reasonableness of cost as determined by the formula in [1425.203-70](#).

(2) The Director, PAM has the authority to make the determination that use of U.S. construction material would be impracticable. Failure of the Director, PAM to issue a determination within 30 days after receipt of a request will be deemed approval for use of the cited foreign material.

(3) For items not on the list at FAR 25.108(d), the CCO may make the non-availability determination if the items cost less than the SAT. The HCA may make the non-availability determination when the cost of the items exceeds the SAT.

### **1425.203-70 Evaluating offers and price adjustment proposals**

(a) Upon receipt of an offered foreign construction material, the CO will conduct a 2 part test to determine, first, if the cost of the components made in the U.S. exceeds 50% of the cost for all the components; and second, if the item meets the first test, whether the item is manufactured in the U.S.

(b) The cost of U.S. material is unreasonable if it exceeds the cost of the foreign construction material by more than 6%. The CO shall compute the cost of construction material to include all delivery costs to the construction site, and any applicable duty (whether or not a duty-free entry certificate is issued.) This evaluation shall be made for each foreign construction material proposed in the offer not excepted by the Government either in the solicitation at [1452.225-70\(a\)](#) or by subsequent amendment.

(c) The contractor shall pass to the Government any cost savings resulting from post-award approval to use of foreign material. The CO may approve exceptions based on cost if the contractor can document that it used U.S. as well as foreign quotes to calculate the price it offered to the Government. If it is shown that the contractor did not obtain the quotes before award, the Director, PAM is authorized to disapprove requests for exceptions to the use of U.S. material. In case of disapproval, the contractor shall use the U.S. material and shall not pass on the additional cost of the U.S. material to the Government.

### **1425.204 Violations**

The CO will report, in writing, any use of non-excepted, foreign construction materials by contractors, subcontractors and suppliers through the HCA to the Director, PAM for debarment action in accordance with [Subpart 1409.4](#).

### **1425.205 Solicitation provision and contract clause**

In addition to using the clauses required in [FAR 25.205](#), the CO shall insert the clause at [1452.225-70](#), Use of Foreign Construction Materials -- Department of the Interior, in solicitations and contracts for construction, alteration, or repair inside the U.S. If the

Government has determined that a U.S. construction material is unavailable, it will be listed under paragraph (a) of the clause.

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## **SUBPART 1425.3 -- BALANCE OF PAYMENTS PROGRAM**

### **1425.302 Policy**

(b)(3) The HCA, without the power of redelegation, is authorized to make the determination that a requirement can only be filled by a foreign end product or service because a U.S. product or service will not suffice.

### **1425.304 Excess and near-excess foreign currencies**

(c) The Director, PAM is authorized to make the determination to use excess or near excess foreign currency after consultation with the Budget Review Division, OMB.

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## **SUBPART 1425.7 -- RESTRICTIONS ON CERTAIN FOREIGN PURCHASES**

### **1425.703 Exceptions**

(a) The AS/PMB is authorized to approve exceptions for DOI use of supplies and services from the countries listed in [FAR25.702](#), for contracts exceeding the SAT. Determinations shall be prepared by the CO and submitted through the HCA to the Director,PAM.

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## **SUBPART 1425.9 -- ADDITIONAL FOREIGN ACQUISITION CLAUSES**

### **1425.901 Omission of audit clause**

(c)(i) The Director, PAM is authorized to make the determinations prescribed in [FAR 25.901\(c\)](#). Determinations shall be prepared by the CO and submitted through the HCA to the Director, PAM.

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## **SUBPART 1425.10 -- IMPLEMENTATION OF SANCTIONS AGAINST COUNTRIES THAT DISCRIMINATE AGAINST UNITED STATES PRODUCTS OR SERVICES IN GOVERNMENT PROCUREMENT.**

### **1425.1002 Trade sanctions**

(c) *Authority to exempt certain procurements.* (1) The Secretary of the Interior without the power of redelegation, is authorized to make the determination that a contract or class of contracts may be awarded to sanctioned EC for end products, services, and construction. Determinations shall be prepared by the CO and submitted through the HCA to the Director, PAM for further action.

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